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22850	7590	01/08/2009		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER SMITH, CHENEA	
			ART UNIT	PAPER NUMBER
			2421	
			NOTIFICATION DATE	DELIVERY MODE
			01/08/2009	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/564,065	<b>Applicant(s)</b> NILSSON ET AL.	
	<b>Examiner</b> CHENEA P. SMITH	<b>Art Unit</b> 2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 12, 14-16, 18 and 20-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12, 14-16, 18, 20-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This office action is in response to communications filed 10/23/2008. Claims 12, 14, 18 and 20-22 are amended. Claims 1-11, 13, 17 and 19 are cancelled. Claims 12, 14-16, 18 and 20-22 are pending in this action.

### ***Response to Arguments***

2. Applicant's arguments filed 10/23/2008 have been fully considered but they are not persuasive.

3. In response to Applicant's arguments that the cited references do not disclose "the notification MMS message including buffer data that is initial streaming video data of the media content", Applicants should note that the system of Mostafa in view of Barde teaches wherein before a streaming service is initialized, an MMS is initially transmitted to the terminal (see Mostafa, [0104] – [0105], line 5), the MMS notification message includes buffer data (see Mostafa, [0104] – [0105], line 5 and see Barde, [0033], lines 6-8). It would have been obvious to a person having ordinary skill in the art at the time of the invention to include the initially buffered data of Barde's system in the MMS notification message of Mostafa's system for the advantage of implementing a quick starting video process within Mostafa's system.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 12-14 and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mostafa (of record) in view of Richardson (of record), Jason (of record) and Barde (of record).

Regarding claims 12 and 20-22, Mostafa discloses a procedure to transmit streaming video data to a terminal with video a client (receiver 24, see Fig. 2) within a system that includes a network (see Fig. 2) and the terminal (see Fig. 2), wherein the network includes a streaming server (media server 22, see Fig. 2 and [0103]) and an MMS server (MMS server 23, see Fig. 2), and the terminal includes an MMS client (see Fig. 2), a streaming client (see Fig. 2) and a display unit to display the streaming video data (see Fig. 2), the procedure comprising:

at a same time as a first time interval is being displayed on the display unit, new streaming data of the streaming video data are transmitted to the terminal (see [0105], lines 1-4),

and before a streaming service is initialized, an MMS notification message is initially transmitted to the terminal, (see Mostafa, [0104] – [0105], line 5), the MMS includes information about the data flow (see Mostafa, [0104], lines 6-12), whereby the streaming client can start streaming of buffer data without delay (see Mostafa, [0107]).

Art Unit: 2421

Mostafa does not specifically disclose a streaming buffer to buffer streaming data, dividing information into high prioritized data which are I-frames, and low prioritized data which are P-frames,

wherein the high prioritized data are transmitted via a secure medium, and the low prioritized data are transmitted over a standard channel, displaying, after the transmission of the high and low prioritized data, the high and low prioritized data in a correct sequence continually in the terminal, and

buffering a first time interval of the streaming data, to display the first time interval on the display unit, or

wherein the high prioritized data are transmitted via MMS and the low prioritized data are transmitted via streaming.

And while Mostafa discloses an MMS notification message, he does not specifically disclose buffer data, the buffer data being initial streaming video data that can be stored on the terminal prior to a user of the terminal starting a streaming service.

In an analogous art, Richardson discloses dividing information into high prioritized data (see [0016], lines 4-9) which are I-frames (see [0016], lines 13-20), and low prioritized data (see [0016], lines 4-9) which are P-frames (see [0016], lines 13-20), and

displaying, after the transmission, the high and low prioritized data in a correct sequence continually in the terminal (see [0020], lines 15-22).

It would have been obvious for a person having ordinary skill in the art at the time of the invention to modify Richardson's system to include dividing streamed information into high prioritized data, I-frames, and low prioritized data, P-frames, to show, after the transmission, the

Art Unit: 2421

high and low prioritized data in a correct sequence continually in the terminal, as disclosed by Richardson, for the advantage of improving network efficiency.

Mostafa in view of Richardson does not specifically disclose wherein the high prioritized data are transmitted via a secure medium and the low prioritized data are transmitted over a standard channel,

a streaming buffer to buffer streaming data,

buffering a first time interval of streaming data, to display the first information on the display unit,

wherein the high prioritized data are transmitted via MMS and the low prioritized data are transmitted via streaming, or

buffer data, the buffer data being initial streaming video data that can be stored on the terminal prior to a user of the terminal starting a streaming service.

In an analogous art, Jason discloses high prioritized data transmitted via a secure medium, and whereas low prioritized data transmitted over a standard channel (see col 4, lines 4-50)

It would have been obvious for a person having ordinary skill in the art at the time of the invention to modify the system of Mostafa in view of Richardson to include high prioritized data transmitted via a separate medium, and whereas low prioritized data transmitted over a standard channel, as disclosed by Jason, for the advantage of improving network efficiency.

Mostafa in view of Richardson and Jason does not specifically disclose a streaming buffer to buffer streaming data,

Art Unit: 2421

buffering a first time interval of streaming data, to display the first information on the display unit,

wherein the high prioritized data are transmitted via MMS and the low prioritized data are transmitted via streaming, or

buffer data, the buffer data being initial streaming video data that can be stored on the terminal prior to a user of the terminal starting a streaming service.

In an analogous art, Barde discloses a streaming buffer to buffer streaming data (see [0033], lines 6-8),

buffering a first time interval of streaming data, to display the first information on a display unit (see [0041], lines 6-13), and

buffer data, the buffer data being initial streaming video data that can be stored on the terminal prior to a user of the terminal starting a streaming service (see [0026], lines 12-15, [0033], lines 6-8 and [0045]).

It would have been obvious for a person having ordinary skill in the art at the time of the invention to modify the system of Mostafa in view of Richardson and Jason, and further in view of Barde to include a streaming buffer to buffer streaming data and buffering a first time interval of streaming data, to show/display the first information on a display unit, as disclosed by Barde, for the advantage of providing the illusion of continuous broadcast in a system. In addition, it would have been obvious to a person having ordinary skill in the art at the time of the invention to include the initially buffered data of Barde's system in the MMS notification message of Mostafa's system for the advantage of implementing a quick starting video process within Mostafa's system.

Mostafa in view of Richardson, Jason and Barde does not specifically disclose wherein high prioritized data are transmitted via MMS and low prioritized data are transmitted via streaming. However, the practice of transmitting high priority data separately from low priority data, as well as the practices of transmitting data via MMS and streaming are commonly known in the art. Also, the practice of first transmitting I-frames, which are the reference frames of any video, and are therefore essential to the reproduction of a video, is commonly known. The only difference is the combination of all of the practices together in a single system. By implementing streaming functionality within the framework of existing MMS protocol, a user is provided with complete flexibility to decide whether and when to receive and playback media content.

Therefore, it would have been obvious for a person having ordinary skill in the art at the time of the invention to include transmitting the high priority I frames of Richardson's system via the MMS of Mostafa's system and the low priority P frames of Richardson's system via the streaming system of Mostafa's to achieve the predictable results of efficiently providing media to a mobile terminal by enabling streaming of media content to be incorporated into a multimedia messaging system in a manner that is compatible with already existing MMS specifications without requiring extensive modifications to existing recommendations.

Regarding claim 14, Mostafa in view of Richardson, Jason and Barde discloses just any amount (see Mostafa, [0098], lines 15-19) of high prioritized data (see Richardson, [0016], lines 4-9 and 13-20) can be transmitted in an MMS message (see Mostafa, [0098], lines 15-19).



Art Unit: 2421

6. Claims 15-16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mostafa (of record) in view of Richardson (of record), Jason (of record) and Barde (of record), as applied to claim 12 above, and further in view of Cooper (of record).

Regarding claim 15, Mostafa in view of Richardson, Jason and Barde discloses wherein all high prioritized data (I-frames, see Richardson, [0016], lines 4-9 and 13-20) are transmitted via MMS (see Mostafa, Fig. 2), but does not specifically disclose data transmitted at a short video sequence.

In an analogous art, Cooper discloses data transmitted at a short video sequence (see [0019], lines 18-31).

It would have been obvious for a person having ordinary skill in the art at the time of the invention to modify the system of Mostafa in view of Richardson, Jason and Barde to include data transmitted at a short video sequence, as disclosed by Cooper, for the advantage of providing a representation of full video to be received.

Regarding claim 16, Mostafa in view of Richardson, Jason and Barde, and further in view of Cooper discloses wherein asymmetrical (see Cooper, [0016], lines 1-6 and [0019], lines 18-31) high prioritized data (I-frames, see Richardson, [0016], lines 4-9 and 13-20) are transmitted via MMS (see Mostafa, Fig. 2) at long video sequences (see Cooper, [0016], lines 1-6 and [0019], lines 18-31).

Regarding claim 18, Mostafa in view of Richardson, Jason and Barde, and further in view of Cooper discloses wherein the procedure includes:

Art Unit: 2421

the streaming client putting the buffer data (see Barde, [0045]) enclosed in the MMS notification (see Mostafa, [0104] – [0105], line 5) message in its streaming buffer (see Barde, [0045]),

the terminal initiating a session with the streaming server which starts streaming back the rest of the streaming video data (see Barde, [0033], lines 6-8 and [0041], lines 6-13 and Mostafa, [0105], lines 1-5),

transmitting the rest of the streaming video data to the streaming client (see Mostafa, [0105], lines 1-5), and

the streaming client putting the rest of the streaming video data in the streaming buffer (see Barde, [0033], lines 6-8 and [0041], lines 6-13).

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2421

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHENEA P. SMITH whose telephone number is (571)272-9524. The examiner can normally be reached on Monday through Friday, 7:30 am - 5:00 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W. Miller/  
Supervisory Patent Examiner, Art Unit 2421

/Chenea P. Smith/  
Examiner, Art Unit 2421